

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

STACEY LYNN WOHL,)
) DOCKET NO.: PT-2003-14
)
Appellant,)
) FACTUAL BACKGROUND,
) CONCLUSIONS OF LAW,
-vs-)
) ORDER and OPPORTUNITY
) FOR JUDICIAL REVIEW
THE DEPARTMENT OF REVENUE)
OF THE STATE OF MONTANA)
)
Respondent.)

The above-entitled appeal was heard on August 11, 2004, in Missoula, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana (Board). The notice of the hearing was duly given as required by law. The taxpayer, represented by her father, Glen Wohl, presented evidence in support of the appeal. The Department of Revenue (DOR), represented by Appraiser Larry Barrett and Regional Manager Jim Fairbanks, presented testimony in opposition to the appeal.

The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence. Testimony and exhibits were taken from both the taxpayer and the Department of Revenue.

The Board overrules the decision of the Missoula County Tax Appeal Board for the total value indication for the

subject property and grants the taxpayer's requested improvement value of \$167,145.

FACTUAL BACKGROUND

1. Due, proper, and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The subject property is residential in character and described as follows:

The improvements located upon Lot 6, Block 2, Phase I, Miller Creek View Addition, City of Missoula, County of Missoula, State of Montana, (Assessor Code: 0003522905).

3. For tax year 2003, the Department of Revenue appraised the subject improvements at \$182,680.

4. The taxpayer filed an appeal with the Missoula County Tax Appeal Board on August 20, 2003, requesting an improvement value of \$167,145.

5. In its November 17, 2003 decision, the county board denied the appeal, stating:

The Board concurs with the facts presented by the Department of Revenue.

6. The taxpayer then appealed that decision to this Board on December 1, 2003, citing the following reason for appeal:

Documentation submitted by the taxpayer supports reduction.

STATEMENT OF THE ISSUE

This house was purchased in an arm's-length transaction. The purchase price should be adopted as its appraised value for ad valorem tax purposes. In addition, an equity issue exists in the tax treatment of 16 properties deemed comparable to the subject by the taxpayer.

TAXPAYER'S CONTENTIONS

Stacey Wohl purchased the subject home in November of 2001 for \$205,865. (Taxpayer's Exhibit 1).

For tax year 2003, the DOR appraised the property at \$221,400.

Mr. Wohl visited with an agent of Gillespie Realty of Missoula, who sold his daughter the home, because the DOR's value seemed excessive in comparison to the price paid. Mr. Wohl asked the realtor to provide 2001 sales information regarding houses in close proximity to the subject. Mr. Wohl asked for a sales range of between \$185,000 and \$230,000. He was provided the following sales information (Taxpayer's Exhibit 4):

//

//

//

//

| House # | 2001 selling price | 2003 DOR appraised value | Above/below selling price |
|---------------|--------------------|--------------------------|---------------------------|
| 1 | \$207,500 | \$211,000 | \$5,000 above |
| 2 | \$218,000 | 220,300 | \$2,300 above |
| 3 | \$196,500 | \$199,800 | \$3,300 above |
| 4 | \$190,500 | \$192,500 | \$2,500 above |
| 5 | \$225,000 | \$220,400 | \$4,600 above |
| 6 | \$189,900 | \$184,300 | \$5,600 below |
| 7 | \$187,000 | \$189,900 | \$2,900 above |
| 8 | \$225,000 | \$220,900 | \$4,100 below |
| 9 | \$187,000 | \$186,200 | \$800 below |
| 10 | \$185,000 | \$189,200 | \$4,200 above |
| 11 | \$227,000 | \$229,800 | \$2,800 above |
| 12 | \$224,000 | \$226,900 | \$2,900 above |
| 13 | \$219,000 | \$212,900 | \$6,100 below |
| 14 | \$205,000 | \$198,400 | \$6,600 below |
| 15 | \$202,500 | \$207,700 | \$5,200 above |
| 16 | \$217,000 | \$216,300 | \$700 below |
| Total: | \$3,305,900 | \$3,306,500 | |

The difference between the 2001 selling prices and the 2003 DOR appraised values equals \$600. \$600 divided by 16 houses amounts to each house being appraised \$37.50 above the actual selling price in 2001.

Subject house sold for \$205,865 in 2001. In 2003, the DOR increased the appraised value to \$221,400. The DOR increased the value \$15,535 above the actual selling price.

Taxpayer's Exhibit 2 contains a copy of the Multiple Listing Service descriptions of each of the above properties deemed comparable to the subject by the taxpayer's realtor.

Based on an average of a comparison of the sales price and the DOR appraised value of the above 16 properties, Mr. Wohl contends that the DOR appraisal reflects a value of \$37.50 above the sales price. His daughter's home is appraised at \$15,535 above the sales price. He questions the equity of such treatment.

Mr. Wohl stated that the taxpayer is seeking the purchase price as the appraised value pursuant to §15-8-111, (2) (a), MCA, which states that:

Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

This house was purchased in an arm's-length transaction. The purchase price established its market value. There were other offers. His daughter presented the highest offer on this home, which had an original asking price of \$210,000.

DOR'S CONTENTIONS

DOR Exhibit A is a copy of the property record card for the subject property. The property was market modeled using the sales, or market, comparison approach to value. DOR Exhibit B is a copy of the Montana Comparable Sales Sheet for the subject property, showing the characteristics of the DOR's comparable properties. These sales prices were used to determine the appraised value of the subject. Summarized, this exhibit illustrates the following:

//

//

//

| | Comparable #1 (this is the subject property) | Comparable #2 | Comparable #3 | Comparable #4 | Comparable #5 |
|-------------------------|---|------------------|------------------|------------------|------------------|
| Sales date | Nov. 2001 | Aug. 2001 | Oct. 2001 | Aug. 2001 | May 2001 |
| Sales price | \$205,865 | \$196,300 | \$211,900 | \$218,000 | \$237,553 |
| Adjusted sales price | \$206,376 | \$209,668 | \$223,545 | \$222,163 | \$231,021 |

The exhibit shows that the comparables selected are a good "match" with the subject in terms of size, number of bedrooms, bathroom, garage area, basement finish, heating/cooling systems, etc. The exhibit also contains photographs of the subject and the comparable properties.

Mr. Barrett stated that the DOR analyzed sales occurring between 1998 and December 31, 2001 for the current appraisal cycle. The DOR's date of value for this cycle is January 1, 2002.

BOARD'S DISCUSSION

ARM 42.20.454 provides that the DOR may consider the sales price of a property as an indication of its market value for ad valorem tax purposes. There is nothing in the record to suggest that the subject transaction was anything other than arm's-length, or to suggest that a 7.5 percent increase in the approximately 45 days between the date of the sale and the date of the DOR appraisal is appropriate.

The Board will, therefore, adopt the taxpayer's requested value of \$205,865. The sale occurred within the time frame

analyzed by the DOR for the current reappraisal cycle. In fact, the subject transaction was selected and used in the DOR market model for this property.

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. §15-2-301, MCA.
2. §15-8-111 MCA. Assessment - market value standard - exceptions. (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.
3. ARM 42.20.454 - Consideration of price as an indication of market value.
4. The appeal of the taxpayer is granted and the decision of the Missoula County Tax Appeal Board is overruled.

//

//

//

//

//

//

//

//

//

//

//

//

//

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject improvements shall be entered on the tax rolls of Missoula County by the local Department of Revenue office at the value of \$167,145. The land value shall remain as appraised by the DOR at \$38,720, for a total property value of \$205,865.

Dated this 3rd day of September, 2004.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

GREGORY A. THORNQUIST, Chairman

JERE ANN NELSON, Member

JOE R. ROBERTS, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 3rd day of September, 2004, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Stacey Lynn Wohl
4843 Christian Drive
Missoula, Montana 59803-2785

Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, MT 59620

Ms. Dorothy Thompson
Property Tax Assessment
Department of Revenue
Mitchell Building
Helena, Montana 59620

Missoula County Appraisal Office
2681 Palmer Street
Suite I
Missoula, Montana 59808-1707

Dale Jackson
Chairman
Missoula County Tax Appeal Board
2160 Nuthatch
Missoula, Montana 59808

DONNA EUBANK
Paralegal